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ABSTRACT

When the National Forest System was established in 1907, Congress required that 25 percent of revenues derived from National Forests be shared with the counties where they are situated. These proceeds partially refund the tax revenues lost by local governments and help fund rural schools, roads, and other services. In recent years, reduced timber sales have decreased these payments dramatically, seriously impacting educational programs, road maintenance, and other services in the affected counties. This report from the Senate Committee on Energy and Natural Resources presents and recommends passage of S. 1608, which would establish secure payments for states and counties containing federal lands and apply available forest revenues to meet these payments, with general treasury funds making up the difference. Of the payments made, 80-85 percent would go to the traditional schools and roads program; 15-20 percent would be given to the counties for federal-land management projects developed locally. The bill aims to provide secure funding for rural schools while improving cooperative relationships among the people that use and care for federal lands and federal management agencies. This report contains the text of the legislation; its purpose, background, and history; and explanations of each legislative section. A statement by James R. Lyons, Agriculture Under Secretary for Natural Resources and Environment, explains why the Clinton Administration opposed this bill, citing the need to sever completely the link between timber sales and educational funding. (SV)

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RC

Calendar No. 520

106TH CONGRESS *2d Session*	SENATE	REPORT 106–275

SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT OF 1999

APRIL 25, 2000.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1608]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1608) to provide annual payments to the States and counties from National Forest System lands managed by the Forest Service, and the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands managed predominantly by the Bureau of Land Management, for use by the counties in which the lands are situated for the benefit of public schools, roads, emergency, and other public purposes; to encourage and provide new mechanisms for cooperation between counties and the Forest Service and the Bureau of Land Management to make necessary investments in Federal lands, and reaffirm the positive connection between Federal Lands counties and Federal Lands; and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Secure Rural Schools and Community Self-Determination Act of 2000".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purpose.
Sec. 3. Definitions.

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TITLE I—SECURE PAYMENTS FOR STATES AND COUNTIES CONTAINING FEDERAL LANDS

Sec. 101. Determination of full payment amount for eligible States and counties.
Sec. 102. Payments to States from Forest Service lands for use by counties to benefit public education and transportation.
Sec. 103. Payments to counties from Bureau of Land Management lands for use to benefit public safety, law enforcement, education, and other public purposes.

TITLE II—SPECIAL PROJECTS ON FEDERAL LANDS

Sec. 201. Definitions.
Sec. 202. General limitation on use of project funds.
Sec. 203. Submission of project proposals.
Sec. 204. Evaluation and approval of projects by Secretary concerned.
Sec. 205. Resource advisory committees.
Sec. 206. Use of project funds.
Sec. 207. Availability of project funds.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Authorization of appropriations.
Sec. 302. Treatment of funds and revenues.
Sec. 303. Regulations.
Sec. 304. Conforming amendments.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The National Forest System, which is managed by the United States Forest Service, was established in 1907 and has grown to include approximately 192,000,000 acres of Federal lands.

(2) The public domain lands known as revested Oregon and California Railroad grant lands and the reconveyed Coos Bay Wagon Road grant lands, which are managed predominantly by the Bureau of Land Management were returned to Federal ownership in 1916 and 1919 and now comprise approximately 2,600,000 acres of Federal lands.

(3) Congress recognized that, by its decision to secure these lands in Federal ownership, the counties in which these lands are situated would be deprived of revenues they would otherwise receive if the lands were held in private ownership.

(4) These same counties have expended public funds year after year to provide services, such as education, road construction and maintenance, search and rescue, law enforcement, waste removal, and fire protection, that directly benefit these Federal lands and people who use these lands.

(5) To accord a measure of compensation to the affected counties for the critical services they provide to both county residents and visitors to these Federal lands, Congress determined that the Federal Government should share with these counties a portion of the revenues the United States receives from these Federal lands.

(6) Congress enacted in 1908 and subsequently amended a law that requires that 25 percent of the revenues derived from National Forest System lands be paid to States for use by the counties in which the lands are situated for the benefit of public schools and roads.

(7) Congress enacted in 1937 and subsequently amended a law that requires that 75 percent of the revenues derived from the revested and reconveyed grant lands be paid to the counties in which those lands are situated to be used as are other county funds, of which 50 percent is to be used as other county funds.

(8) For several decades primarily due to the growth of the federal timber sale program, counties dependent on and supportive of these Federal lands received and relied on increasing shares of these revenues to provide funding for schools and road maintenance.

(9) In recent years, the principal source of these revenues, Federal timber sales, has been sharply curtailed and, as the volume of timber sold annually from most of the Federal lands has decreased precipitously, so too have the revenues shared with the affected counties.

(10) This decline in shared revenues has affected educational funding and road maintenance for many counties.

(11) In the Omnibus Budget Reconciliation Act of 1993, Congress recognized this trend and ameliorated its adverse consequences by providing an alternative

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annual safety net payment to 72 counties in Oregon, Washington, and northern California in which Federal timber sales had been restricted or prohibited by administrative and judicial decisions to protect the northern spotted owl.

(12) The authority for these particular safety net payments is expiring and no comparable authority has been granted for alternative payments to counties elsewhere in the United States that have suffered similar losses in shared revenues from the Federal lands and in the funding for schools and roads those revenues provide.

(13) There is a need to stabilize education and road maintenance funding through predicable payments to the affected counties, job creation in those counties, and other opportunities associated with restoration, maintenance, and stewardship of federal lands.

(14) Both the Forest Service and the Bureau of Land Management face significant backlogs in infrastructure maintenance and ecosystem restoration that are difficult to address through annual appropriations.

(15) There is a need to build new, and strengthen existing, relationships and to improve management of public lands and waters.

(b) PURPOSES.—The purposes of this Act are—

(1) to stabilize and make permanent payments to counties to provide funding for schools and roads;

(2) to make additional investments in, and create additional employment opportunities through, projects that improve the maintenance of existing infrastructure, implement stewardship objectives that enhance forest ecosystems, and restore and improve land health and water quality. Such projects shall enjoy broad-based support with objectives that may include, but are not limited to:

(A) Road, trail, and infrastructure maintenance or obliteration;
(B) Soil productivity improvement;
(C) Improvements in forest ecosystem health;
(D) Watershed restoration and maintenance;
(E) Restoration, maintenance and improvement of wildlife and fish habitat;
(F) Control of noxious and exotic weeds;
(G) Reestablishment of native species; and
(H) General resource stewardship.

(3) to improve cooperative relationships among the people that use and care for Federal lands and the agencies that manage these lands.

SEC. 3. DEFINITIONS.

In this Act:

(1) FEDERAL LANDS.—The term "Federal lands" means—

(A) lands within the National Forest System, as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)) exclusive of the National Grasslands administered pursuant to the Act of July 22, 1937 (7 U.S.C. 1010–10912); and

(B) the Oregon and California Railroad grant lands revested in the United States by the Act of June 9, 1916 (chapter 137; 39 Stat. 218), Coos Bay Wagon Road grant lands reconveyed to the United States by the Act of February 26, 1919 (chapter 47; 40 Stat. 1179), and subsequent additions to such lands.

(2) ELIGIBILITY PERIOD.—The term "eligibility period" means fiscal year 1984 through fiscal year 1999.

(3) ELIGIBLE COUNTY.—The term "eligible county" means a county or borough that received 50-percent payments for one or more fiscal years of the eligibility period or a county or borough that received a portion of an eligible State's 25-percent payments for one or more fiscal years of the eligibility period. The term includes a county or borough established after the date of the enactment of this Act so long as the county or borough includes all or a portion of a county or borough described in the preceding sentence.

(4) ELIGIBLE STATE.—The term "eligible State" means a State that received 25-percent payments for one or more fiscal years of the eligibility period.

(5) FULL PAYMENT AMOUNT.—The term "full payment amount" means the amount calculated for each eligible State and eligible county under section 101.

(6) 25-PERCENT PAYMENTS.—The term "25-percent payments" means the payments to States required by the sixth paragraph under the heading of "FOREST SERVICE" in the Act of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

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(7) 50-PERCENT PAYMENTS.—The term "50-percent payments" means the payments that are the sum of the 50-percent share otherwise paid to a county pursuant to title II of the Act of August 28, 1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f), and the payment made to a county pursuant to the Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43 U.S.C. 1181f-1 et seq.).

(8) SAFETY NET PAYMENTS.—The term "safety net payments" means the payments to States and counties required by section 13982 or 13983 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 16 U.S.C. 500 note; 43 U.S.C. 1181f note).

TITLE I—SECURE PAYMENTS FOR STATES AND COUNTIES CONTAINING FEDERAL LANDS

SEC. 101. DETERMINATION OF FULL PAYMENT AMOUNT FOR ELIGIBLE STATES AND COUNTIES.

(a) CALCULATION REQUIRED.—

(1) ELIGIBLE STATES.—The Secretary of the Treasury shall calculate for each eligible State an amount equal to the average of the three highest 25-percent payments and safety net payments made to the eligible counties in that State for fiscal years of the eligibility period.

(2) BLM COUNTIES.—The Secretary of the Treasury shall calculate for each eligible county that received a 50-percent payment during the eligibility period an amount equal to the average of the three highest 50-percent payments and safety net payments made to that eligible county for fiscal years of the eligibility period.

(b) ANNUAL ADJUSTMENT.—For each fiscal year in which payments are required to be made to eligible States and eligible counties under this title, the Secretary of the Treasury shall adjust the full payment amount for the previous fiscal year for each eligible State and eligible county to reflect changes in the consumer price index for rural areas (as published in the Bureau of Labor Statistics) that occur after publication of that index for fiscal year 2000.

SEC. 102. PAYMENTS TO STATES FROM NATIONAL FOREST SYSTEM LANDS FOR USE BY COUNTIES TO BENEFIT PUBLIC EDUCATION AND TRANSPORTATION.

(a) REQUIREMENT FOR PAYMENTS TO ELIGIBLE STATES.—The Secretary of the Treasury shall make to each eligible State a payment in accordance with subsection (b) for each fiscal year beginning in fiscal year 2000. The payment for a fiscal year shall be made as soon as practicable after the end of that fiscal year.

(b) PAYMENT AMOUNTS.—Except as provided in subsection (c), the payment to an eligible State for a fiscal year shall consist of the 25-percent payment applicable to that State for that fiscal year as described in section 3(6).

(c) ELECTION TO RECEIVE FULL PAYMENT AMOUNT.—

(1) An eligible State may elect to receive the full payment amount as described in sections 101(a)(1) and 101(b), in lieu of the payment described in subsection (b). The election shall be made at the discretion of each affected county and transmitted to the Secretary by the Governor of a State. Each such county election shall be effective for two fiscal years.

(2) Except that, when a county elects to receive the full payment amount, such election shall be effective for all the subsequent fiscal years.

(3) The payment to an eligible State under this subsection for a fiscal year shall be derived first from any revenues, fees, penalties, or miscellaneous receipts, exclusive of deposits to any relevant trust fund, or special accounts, received by the Federal Government from activities by the Forest Service on the Federal lands described in subsection 3(1)(A) and/or secondly, as determined by the Secretary of the Treasury, from any funds in the Treasury not otherwise appropriated.

(d) DISTRIBUTION AND EXPENDITURE OF PAYMENTS.—

(1) DISTRIBUTION METHOD.—An eligible State that elects to receive a payment under subsection (c) shall distribute the payment among all eligible counties in the State, with each eligible county receiving the amount calculated for that county in Section 101(a).

(2) EXPENDITURE PURPOSES.—Subject to subsection (e), payments received by eligible States under subsection (a) and distributed to eligible counties shall be expended in the same manner in which 25-percent payments are required to be expended.

(e) EXPENDITURE RULES FOR ELIGIBLE COUNTIES.—

(1) IN GENERAL.—Of the funds to be distributed to an eligible county pursuant to subsection (d)—

(A) not less than 80 percent but not more than 85 percent of the funds shall be expended in the same manner in which the 25-percent payments are required to be expended; and

(B) at the election of an eligible county, the balance of the funds not expended pursuant to subparagraph (A) shall either be reserved for projects in accordance with title II, or remitted to the fund created by Section 302(b).

(2) DEPOSIT OF FUNDS IN SPECIAL ACCOUNT.—Funds reserved by an eligible county under paragraph (1) shall be deposited in a special account in the Treasury of the United States and shall be available for expenditure by the Secretary of Agriculture, without further appropriation, and shall remain available until expended in accordance with title II.

(3) ELECTION.—

(A) GENERAL.—An eligible county shall notify the Secretary of Agriculture of its election under this subsection not later than September 30 of each fiscal year. If the eligible county fails to make an election by that date, the county is deemed to have elected to expend 85 percent of the funds to be received under subsection (c) in the same manner in which the 25-percent payments are required to be expended, and remitted the balance to the fund created by Section 302(b).

(B) COUNTIES WITH MINOR DISTRIBUTIONS.—Notwithstanding the expenditure rules in this subsection, in the case of each eligible county to which less than $100,000 is distributed for any fiscal year pursuant to subsection (c), the eligible county may elect to expend all such funds in accordance with subsection (d).

SEC. 103. PAYMENTS TO COUNTIES FROM BUREAU OF LAND MANAGEMENT LANDS FOR USE TO BENEFIT PUBLIC SAFETY, LAW ENFORCEMENT, EDUCATION, AND OTHER PUBLIC PURPOSES.

(a) REQUIREMENT FOR PAYMENTS TO ELIGIBLE COUNTIES.—The Secretary of the Treasury shall make to each eligible county that received a 50-percent payment during the eligibility period a payment in accordance with subsection (b) for each of fiscal year in fiscal year 2000. The payment for a fiscal year shall be made as soon as practicable after the end of that fiscal year.

(b) PAYMENT AMOUNTS.—Except as provided in subsection (c), the payments to an eligible county for a fiscal year shall consist of the 50-percent payment applicable to that county for that fiscal year as described in section 3(7).

(c) ELECTION TO RECEIVE FULL PAYMENT AMOUNT.—

(1) An eligible county may elect to receive the full payment amount, as described in sections 101(a)(2) and 101(b) in lieu of the payment described in subsection (b). The election shall be made at the discretion of the county. Once the election is made, it shall be effective for the fiscal year in which the election is made and all subsequent fiscal years.

(2) The payment to an eligible county under this subsection for a fiscal year shall be derived first from any revenues, fees, penalties, or miscellaneous receipts, exclusive of deposits to any relevant trust fund, or special accounts, received by the Federal Government from activities by the Bureau of Land Management on the Federal Lands described in subsection 3(1)(B) and/or secondly, as determined by the Secretary of the Treasury, from any funds in the Treasury not otherwise appropriated.

(d) EXPENDITURE RULES FOR ELIGIBLE COUNTIES.—

(1) IN GENERAL.—Of the funds to be distributed to an eligible county pursuant to subsection (d)—

(A) Not less than 80 percent but not more than 85 percent of the funds distributed to the eligible county shall be expended in the same manner in which the 50-percent payments are required to be expended; and

(B) At the election of an eligible county, the balance of the funds not expended pursuant to subparagraph (A) shall either be reserved for projects in accordance with Title II, or remitted to the fund created by Section 302(b).

(2) DEPOSIT OF FUNDS IN SPECIAL ACCOUNT.—Funds reserved by an eligible county under paragraph (1) shall be deposited in a special account in the Treasury of the United States and shall be available for expenditure by the Secretary of the Interior, without further appropriation, and shall remain available until expended in accordance with title II.

(3) ELECTION.—An eligible county shall notify the Secretary of the Interior of its election under this subsection not later than September 30 of each fiscal year under subsection (d). If the eligible county fails to make an election by that date, the county is deemed to have elected to expend 85 percent on the funds received under subsection (c) in the same manner in which the 50-percent payments are required to be expended and remitted the balance to the fund created by Section 302(b).

TITLE II—SPECIAL PROJECTS ON FEDERAL LANDS

SEC. 201. DEFINITIONS.

In this title:

(1) PARTICIPATING COUNTY.—The term 'participating county' means an eligible county that—

(A) receives Federal funds pursuant to section 102 or 103; and

(B) elects under sections 102(e)(3) or 103(d)(3) to expend a portion of those funds in accordance with sections 102(e)(1)(B) or 103(d)(3).

(2) PROJECT FUNDS.—The term "project funds" means all funds an eligible county elects under sections 102(e)(3) and 103(d)(3) to reserve for expenditure under sections 102(e)(1)(B) or 103(d)(2) for expenditure in accordance with this title.

(3) RESOURCE ADVISORY COMMITTEE.—The term "resource advisory committee" means an advisory committee established by the Secretary concerned under section 205, or determined by the Secretary concerned to meet the requirements of section 205.

(4) RESOURCE MANAGEMENT PLAN.—The term "resource management plan" means a land use plan prepared by the Bureau of Land Management for units of the Federal lands described in section 3(1)(B) pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) and a land and resource management plan prepared by the Forest Service for units of the National Forest System pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

(5) SECRETARY CONCERNED.—The term "Secretary concerned" means the Secretary of the Interior or his designee with respect to the Federal lands described in section 3(1)(B) and the Secretary of Agriculture or his designee with respect to the Federal lands described in section 3(1)(A).

SEC. 202. GENERAL LIMITATION ON USE OF PROJECT FUNDS.

Project funds shall be expended solely on projects that meet the requirements of this title. Project funds may be used by the Secretary concerned for the purpose of entering into and implementing cooperative agreements with willing federal agencies, state and local governments, private and nonprofit entities, and landowners for protection, restoration and enhancement of fish and wildlife habitat, and other resource objectives consistent with the purposes of this title on public or private land or both that benefit these resources within the watershed.

SEC. 203. SUBMISSION OF PROJECT PROPOSALS.

(a) SUBMISSION OF PROJECT PROPOSALS TO SECRETARY CONCERNED.—

(1) PROJECTS FUNDED USING PROJECT FUNDS.—Not later than September 30 for fiscal year 2001, and each September 30 thereafter for each succeeding fiscal year, each resource advisory committee established under section 205 shall submit to the Secretary concerned a description of any projects that the resource advisory committee proposes the Secretary undertake using any project funds reserved.

(2) PROJECTS FUNDED USING OTHER FUNDS.—A resource advisory committee may submit to the Secretary concerned a description of any projects that the committee proposes the Secretary undertake using funds from state or local governments, from the private sector, or funds held by the Secretary concerned pursuant to Section 302(b), other than project funds and funds appropriated and otherwise available to do similar work.

(3) JOINT PROJECTS.—Participating counties or other persons may propose to pool project funds or other funds, described in paragraph (2), and jointly propose a project or group of projects to a resource advisory committee established under section 205.

(b) REQUIRED DESCRIPTION OF PROJECTS.—In submitting proposed projects to the Secretary concerned under subsection (a), a resource advisory committee shall include in the description of each proposed project the following information:

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(1) The purpose of the project and a description of how the project will meet the purposes of this Act.

(2) The anticipated duration of the project.

(3) The anticipated cost of the project.

(4) The proposed source of funding for the project, whether project funds or other funds.

(5) Expected outcomes, including how the project will meet or exceed desired ecological conditions, maintenance objectives, or stewardship objectives, as well as an estimation of the amount of any timber, forage, and other commodities and other economic activity, including jobs generated, if any, anticipated as part of the project.

(6) A detailed monitoring plan, including funding needs and sources, that tracks project effectiveness, implementation, and provides for validation monitoring, The monitoring plan shall include an assessment of the following: whether or not the project created local employment or training opportunities, including summer youth jobs programs such as the Youth Conservation Corps where appropriate; and whether the project improved the use of, or added value to, any products removed from lands consistent with the purposes of this Act.

(7) An assessment that the project is to be in the public interest.

(c) AUTHORIZED PROJECTS.—

(1) IN GENERAL.—Projects proposed under subsection (a) shall be consistent with section 2(b).

(2) SEARCH, RESCUE, AND EMERGENCY SERVICES.—Notwithstanding paragraph (1), a resource advisory committee may submit as a proposed project under subsection (a) a proposal that the participating county or sheriff's department receive reimbursement for search and rescue and other emergency services performed on Federal lands and paid for by the county. The source of funding for an approved project of this type must be the fund created by Section 302(b).

(3) COMMUNITY SERVICE WORK CAMPS.—Notwithstanding paragraph (1), a resource advisory committee may submit as a proposed project under subsection (a) a proposal that the participating county receive reimbursement for all or part of the costs incurred by the county to pay the salaries and benefits of county employees who supervise adults or juveniles performing mandatory community service on Federal lands.

SEC. 204. EVALUATION AND APPROVAL OF PROJECTS BY SECRETARY CONCERNED.

(a) CONDITIONS FOR APPROVAL OF PROPOSED PROJECT.—The Secretary concerned may make a decision to approve a project submitted by a resource advisory committee under section 203 only if the proposed project satisfies each of the following conditions:

(1) The project complies with all applicable Federal laws and regulations.

(2) The project is consistent with the applicable resource management plan and with any watershed or subsequent plan developed pursuant to the resource management plan and approved by the Secretary concerned.

(3) The project has been approved by the resource advisory committee in accordance with section 205, including the procedures issued under subsection (e) of such section.

(4) A project description has been submitted by the resource advisory committee to the Secretary concerned in accordance with section 203.

(b) ENVIRONMENTAL REVIEWS.—

(1) PAYMENT OF REVIEW COSTS.—

(A) REQUEST FOR PAYMENT BY COUNTY.—The Secretary concerned may request the resource advisory committee submitting a proposed project to agree to the use of project funds to pay for any environmental review, consultation, or compliance with applicable environmental laws required in connection with the project. When such a payment is requested and the resource advisory committee agrees to the expenditure of funds for this purpose, the Secretary concerned shall conduct environmental review, consultation, or other compliance responsibilities in accordance with federal law and regulations.

(B) EFFECT OF REFUSAL TO PAY.—If a resource advisory committee does not agree to the expenditure of funds under subparagraph (A), the project shall be deemed withdrawn from further consideration by the Secretary concerned pursuant to this title. Such a withdrawal shall be deemed to be a rejection of the project for purposes of section 207(c).

(c) DECISIONS OF SECRETARY CONCERNED.—

(1) REJECTION OF PROJECTS.—A decision by the Secretary concerned to reject a proposed project shall be at the Secretary's sole discretion. Notwithstanding

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any other provision of law, a decision by the Secretary concerned to reject a proposed project shall not be subject to administrative appeal or judicial review. Within 30 days after making the rejection decision, the Secretary concerned shall notify in writing the resource advisory committee that submitted the proposed project of the rejection and the reasons for rejection.

(2) NOTICE OF PROJECT APPROVAL.—The Secretary concerned shall publish in the Federal Register notice of each project approved under subsection (a) if such notice would be required had the project originated with the Secretary.

(d) SOURCE AND CONDUCT OF PROJECT.—Once the Secretary concerned accepts a project for review under section 204, it shall be deemed a federal action for all purposes.

(e) IMPLEMENTATION OF APPROVED PROJECTS.—

(1) COOPERATION.—Notwithstanding chapter 63 of title 31, United States Code, the Secretary concerned may enter into contracts, grants, and cooperative agreements with States and local governments, private and nonprofit entities, and landowners and other persons to assist the Secretary in carrying out an approved project.

(2) BEST VALUE CONTRACTING.—For any project involving a contract authorized by paragraph (1) the Secretary concerned may elect a source for performance of the contract on a best value basis. The Secretary concerned shall determine best value based on such factors as:

(A) The technical demands and complexity of the work to be done.

(B) The ecological objectives of the project and the sensitivity of the resources being treated.

(C) The past experience by the contractor with the type of work being done, using the type of equipment proposed for the project, and meeting or exceeding desired ecological conditions.

(D) The commitment of the contractor to hiring highly qualified workers and local residents.

(3) MERCHANTABLE MATERIALS SALES CONTRACTING PILOT PROJECTS.—Until September 30, 2004, for a portion of the contracts issued under this paragraph, the Secretary concerned shall provide for the disposal of the forest products under a separate contract. Within one year of the completion of the contracts authorized under this paragraph, the Secretary shall report to the Committee on Energy and Natural Resources of the United States Senate and the Committee of Resources of the United States House of Representatives on the environmental and fiscal results of these projects.

SEC. 205. RESOURCE ADVISORY COMMITTEES.

(a) ESTABLISHMENT AND PURPOSE OF RESOURCE ADVISORY COMMITTEES.—

(1) ESTABLISHMENT.—The Secretary concerned shall establish and maintain a resource advisory committee to perform the duties in subsection (b), except as provided in paragraphs (3) and (4).

(2) PURPOSE.—The purpose of a resource advisory committee shall be to improve collaborative relationships and to provide advice and recommendations to the land management agencies consistent with the purposes of this Act.

(3) ACCESS TO RESOURCE ADVISORY COMMITTEES.—To ensure that each unit of Federal land has access to a resource advisory committee, and that there is sufficient interest in participation on a committee to ensure that membership can be balanced in terms of the points of view represented and the functions to be performed, the Secretary concerned may, establish resource advisory committees for part of, or one or more, units of Federal lands.

(4) EXISTING ADVISORY COMMITTEES.—Existing advisory committees meeting the requirements of this section may be deemed by the Secretary concerned, as a resource advisory committee for the purposes of the title. The Secretary of the Interior may deem a resource advisory committee meeting the requirements of part 1780, subpart 1784 of title 43, Code of Federal Regulations, as a resource advisory committee for the purposes of this title.

(b) DUTIES.—A resource advisory committee shall—

(1) review projects proposed by participating counties and other persons;

(2) propose projects and funding to the Secretary concerned under section 203;

(3) provide early and continuous coordination with appropriate land management agency officials in recommending projects consistent with purposes of this Act; and

(4) provide frequent opportunities for citizens, organizations, Tribes, land management agencies, and other interested parties to participate openly and meaningfully, beginning at the early stages of the project development process.

(c) APPOINTMENT BY THE SECRETARY.—

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(1) APPOINTMENT AND TERM.—The Secretary concerned, shall appoint the members of resource advisory committees for a term of 3 years beginning on the date of appointment. The Secretary concerned may reappoint members to subsequent 3–year terms.

(2) BASIC REQUIREMENTS.—The Secretary concerned shall ensure that each resource advisory committee established meets the requirements of subsection (d).

(3) INITIAL APPOINTMENT.—The Secretary concerned shall make initial appointments to the resource advisory committees not later than 180 days after the date of the enactment of this Act.

(4) VACANCIES.—The Secretary concerned shall make appointments to fill vacancies on any resource advisory committee as soon as practicable after the vacancy has occurred.

(5) COMPENSATION.—Members of the resource advisory committees shall not receive any compensation.

(d) COMPOSITION OF ADVISORY COMMITTEE.—

(1) NUMBER.—Each resource advisory committee shall be comprised of 15 members.

(2) COMMUNITY INTERESTS REPRESENTED.—Committee members shall be representative of the interests of the following three categories:

(A) 5 persons who—

(i) represent organized labor;

(ii) represent developed outdoor recreation, off highway vehicle users, or commercial recreation activities;

(iii) represent energy and mineral development interests;

(iv) represent the commercial timber industry; or

(v) hold Federal grazing permits, or other land use permits within the area for which the committee is organized.

(B) 5 persons representing—

(i) nationally recognized environmental organizations;

(ii) regionally or locally recognized environmental organizations;

(iii) dispersed recreational activities;

(iv) archeological and historical interests; or

(v) nationally or regionally recognized wild horse and burro interest groups.

(C) 5 persons who—

(i) hold state elected office or their designee,

(ii) hold county or local elected office;

(iii) represent American Indian tribes within or adjacent to the area for which the committee is organized;

(iv) are school officials or teachers; or

(v) represent the affected public at large.

(3) BALANCED REPRESENTATION.—In appointing committee members from the three categories in paragraph (2), the Secretary concerned shall provide for balanced and broad representation from within each category.

(4) GEOGRAPHIC DISTRIBUTION.—The members of a resource advisory committee shall reside within the state in which the committee has geographic jurisdiction.

(5) CHAIRPERSON.—A majority on each resource advisory committee shall select the chairperson of the committee.

(e) APPROVAL PROCEDURES.—

(1) Subject to paragraph (2), each resource advisory committee shall establish procedures for defining a quorum and proposing projects to the Secretary concerned. A quorum must be present to constitute an official meeting of the committee.

(2) A project may be proposed by a resource advisory committee to the Secretary concerned under section 203(a) if it has been approved by a majority of members of the committee from each of the three categories in subsection (c)(2).

(f) OTHER COMMITTEE AUTHORITIES AND REQUIREMENTS.—

(1) STAFF ASSISTANCE.—A resource advisory committee may submit to the Secretary concerned a request for periodic staff assistance from Federal employees under the jurisdiction of the Secretary.

(2) MEETINGS—All meetings of a resource advisory committee shall be announced at least one week in advance in a local newspaper of record and shall be open to the public.

(3) RECORDS.—A resource advisory committee shall maintain records of the meetings of the committee and make the records available for public inspection.

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SEC. 206. USE OF PROJECT FUNDS.

(a) AGREEMENT REGARDING SCHEDULE AND COST OF PROJECT.—

(1) AGREEMENT BETWEEN PARTIES.—The Secretary concerned may carry out a project submitted by a resource advisory committee under section 203(a) using project funds or other funds described in section 203(a)(2), if, as soon as practicable after the issuance of a decision document for the project and the exhaustion of all administrative appeals and judicial review of the project decision, the Secretary concerned and the resource advisory committee enter into an agreement addressing, at a minimum, the following:

(A) The schedule for completing the project.

(B) The total cost of the project, including the level of agency overhead to be assessed against the project.

(C) For a multi-year project, the estimated cost of the project for each of the fiscal years in which it will be carried out.

(D) The remedies for failure of the Secretary concerned to comply with the terms of the agreement consistent with current Federal law.

(2) LIMITED USE OF FEDERAL FUNDS.—The Secretary concerned may decide, at the Secretary's sole discretion, to cover the costs of a portion of an approved project using Federal funds appropriated or otherwise available to the Secretary for the same purposes as the project.

(b) TRANSFER OF PROJECT FUNDS.—

(1) INITIAL TRANSFER REQUIRED.—As soon as practicable after the agreement is reached under subsection (a) with regard to a project to be funded in whole or in part using project funds, or other funds described in section 203(a)(2), the Secretary concerned shall transfer to the applicable unit of National Forest System lands or BLM District an amount of project funds equal to—

(A) in the case of a project to be completed in a single fiscal year, the total amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2); or

(B) in the case of a multi-year project, the amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2) for the first fiscal year.

(2) CONDITION ON PROJECT COMMENCEMENT.—The unit of National Forest System lands or BLM District concerned, shall not commence a project until the project funds, or other funds described in section 203(a)(2) required to be transferred under paragraph (1) for the project, have been made available by the Secretary concerned.

(3) SUBSEQUENT TRANSFERS FOR MULTI-YEAR PROJECTS.—For the second and subsequent fiscal years of a multi-year project to be funded in whole or in part using project funds, the unit of National Forest System lands or BLM District concerned shall use the amount of project funds required to continue the project in that fiscal year according to the agreement entered into under subsection (a). The Secretary concerned shall suspend work on the project if the project funds required by the agreement in the second and subsequent years fiscal years are not available.

SEC. 207. AVAILABILITY OF PROJECT FUNDS.

(a) SUBMISSION OF PROPOSED PROJECTS TO OBLIGATE FUNDS.—By the end of each fiscal year, a resource advisory committee shall submit to the Secretary concerned pursuant to section 203(a)(1) a sufficient number of project proposals that, if approved, would result in the obligation of at least the full amount of the project funds reserved by the participating county in the preceding fiscal year.

(b) USE OR TRANSFER OF UNOBLIGATED FUNDS.—

(1) If a resource advisory committee fails to comply with subsection (a) for a fiscal year, any project funds reserved by the participating county in the preceding fiscal year and remaining unobligated shall be available for use as part of the project submissions in the next fiscal year.

(2) Any funds not used because a county fails to elect under Section 102(e)(3) or Section 103(d)(3) to expend monies for local projects shall be remitted to the fund created by Section 302(b).

(c) EFFECT OF REJECTION OF PROJECTS.—Any project funds reserved by a participating county in the preceding fiscal year that are unobligated at the end of a fiscal year because the Secretary concerned has rejected one or more proposed projects shall be available for use as part of the project submissions in the next fiscal year.

(d) EFFECT OF COURT ORDERS.—If an approved project is enjoined or prohibited by a Federal court under this Act, the Secretary concerned shall use unobligated project funds related to that project in the participating county or counties that reserved the funds. The returned funds shall be available for the county to expend

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in the same manner as the funds reserved by the county under section 102(e)(1)(B) or 103(d)(1)(B), whichever applies to the funds involved.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as are necessary to carry out this Act for fiscal years 2001 through 2007.

SEC. 302. TREATMENT OF FUNDS AND REVENUES.

(a) Funds appropriated pursuant to the authorization of appropriations in section 301 and funds made available to a Secretary concerned under section 206 shall be in addition to any other annual appropriations for the Forest Service and the Bureau of Land Management.

(b) Any and all revenues generated from projects pursuant to title II, any funds remitted by counties pursuant to Section 102(e)(1)(B) or Section 103(d)(1)(B), and any interest accrued from any such funds shall be deposited and retained without further appropriation in a national fund and available to the Secretary concerned to fund projects authorized pursuant to Section 203. The Secretary concerned shall prioritize expenditures from this fund and shall identify, in an annual report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives, all projects receiving funds pursuant to this subsection.

SEC. 303. REGULATIONS.

The Secretaries concerned may jointly issue regulations to carry out the purposes of this Act.

SEC. 304. CONFORMING AMENDMENTS.

Section 13982 of the Omnibus Budget Reconciliation Act of 1993 (116 U.S.C. 500 note) is repealed. Sections 13982 and 13983 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 16 U.S.C. 500 note; 43 U.S.C. 1181fnote) is repealed.

PURPOSE OF THE MEASURE

The purpose of S. 1608 is to provide annual payments for the benefit of public schools and roads to counties that contain National Forest System lands managed by the Forest Service, and for schools, roads and other public purposes for revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (O&C lands), managed predominantly by the Bureau of Land Management (BLM). S. 1608 also has as its purpose to improve cooperative relationships among the people that use and care for Federal lands and the agencies that manage these lands.

BACKGROUND AND NEED

S. 1608 provides stable payments to states and counties that currently receive revenue-sharing payments from the Forest Service and BLM.

In 1908, 1911, and 1937 Congress enacted laws to share with rural counties a portion of the revenues derived from activities on the national forests and O&C lands situated in those counties. Since passage of those laws, counties dependent on, and supportive of these Federal lands, received increasing levels of these revenues, consisting primarily of timber revenues, to provide funding for schools and road maintenance.

In recent years, however, Federal timber sales have been sharply curtailed and, as the volume of timber sold annually from most of the Federal lands has decreased precipitously, so too have the revenues shared with the affected counties. Consequently, the decline

in shared revenues has seriously impacted educational programs, road maintenance for counties containing national forests, and general county services for counties containing O&C lands. Over 700 counties in 41 states and Puerto Rico receive these payments. However, the amount of these revenues have also been affected by national and international market factors, domestic interest rates, housing starts, and economic recessions in Europe and Japan.

Today, both the Forest Service and the BLM face significant backlogs in infrastructure maintenance and ecosystem restoration that are difficult to address through the current levels of annual appropriations. At the same time, there is a pressing need to build new, and strengthen existing, relationships among the various interests active in federal land management programs. The need for stable funding for the counties, and the interest that some counties' expressed in being "connected" to the Federal land, logically led to the need for this bill.

LEGISLATIVE HISTORY

S. 1608 was introduced on September 21, 1999. The Subcommittee on Forests and Public Land Management held hearings on S. 1608 on October 5 and October 19, 1999. At the business meeting on April 5, 2000, the Committee on Energy and Natural Resources ordered S. 1608 reported favorably with an amendment in the nature of a substitute.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on April 5, 2000, by a voice vote of a quorum present recommends that the Senate pass S. 1608 if amended as described herein.

COMMITTEE AMENDMENT

The amendment in the nature of a substitute addresses several concerns raised about S. 1608. The substitute: (1) provides counties the opportunity to remain under the receipts formula in current law; (2) reduces the amount of funding allocated to resource stewardship investments on Federal lands from 25% of the total payment to counties to at least fifteen percent but not more than twenty percent; (3) modifies the structure of local advisory committees so that they more closely resemble the structure of BLM Resource Advisory Committees; (4) requires that special projects on Federal lands improve the maintenance of existing infrastructure, achieve stewardship objectives that enhance forest ecosystems, and restore and improve land health and water quality; (5) directs any revenues generated from these projects and any unused project funds to a national account administered by the Secretaries to fund additional projects recommended by local advisory committees and approved by the Secretaries of Agriculture and the Interior; and (6) directs the land management agencies to conduct pilot projects to sell merchantable material, from special projects, under a separate contract.

SECTION-BY-SECTION ANALYSIS

Section 1(a) designates the short title of the Act as the "Secure Rural Schools and Community Self-Determination Act of 2000."

Subsection (b) provides the table of contents.

Section 2(a) describes the findings of Congress.

Subsection (b) provides the purposes of the Act.

Section 3 provides the definitions used in the Act.

TITLE I—SECURE PAYMENTS FOR STATES AND COUNTIES CONTAINING FEDERAL LANDS

Section 101 (a) directs the Secretary of the Treasury to calculate the full payment amount for eligible States and eligible counties by averaging the three highest annual 25–percent payments or 50–percent payments respectively during a period from fiscal year 1984 through fiscal year 1999.

Subsection 101 (b) directs the Secretary of the Treasury to make annual inflation adjustments for each fiscal year in which payments are required.

Section 102(a) requires the Secretary of the Treasury to make payments to eligible states for each fiscal year beginning in fiscal year 2000 as soon as practicable after the end of the fiscal year.

Subsection 102(b) directs that the payment to an eligible state for a fiscal year shall consist of the 25–percent payment applicable to that state unless the State elects to receive the full payment amount.

Subsection 102(c) provides direction on the election for the full payment amount.

Paragraph (c)(1) allows a State to elect the full payment amount at the discretion of each affected county, with each county's decision transmitted to the Secretary by the Governor of the state. A county's decision shall be effective for two fiscal years.

Paragraph (c)(2) requires that, when a county elects to receive the full payment amount, this election shall be effective for all subsequent fiscal years.

Paragraph (c)(3) directs that the payment to an eligible State under this subsection for a fiscal year shall be derived first from any revenues, fees, penalties, or miscellaneous receipts, exclusive of trust fund deposits or special accounts, received from activities by the Forest Service on National Forest System lands, and second, from any funds in the Treasury not otherwise appropriated.

Subsection 102(d) describes the distribution and expenditure of payments.

Paragraph (d)(1) provides that an eligible state that elects to receive the full payment amount shall distribute the payment among eligible counties with each eligible county receiving the amount calculated based upon the average of the three highest 25-percent payments and safety net payments made to the eligible counties during the eligibility period.

Paragraph (d)(2) requires that payments received by eligible States be expended in the same manner as 25-percent payments, except as provided in subsection (e).

Subsection (e) sets out the expenditure rules for eligible counties to mimic the status quo.

Subparagraph (e)(1)(A) requires that eligible counties spend not less than 80 percent, but not more than 85 percent of the funds in the same manner as 25–percent payments were spent historically.

Subparagraph (e)(1)(B) provides that, upon election of an eligible county, the balance of the funds not expended in the same manner as the 25-percent payments shall be reserved for expenditure on projects in accordance with title II, or remitted to the fund created by section 302(b).

Paragraph (e)(2) provides that funds reserved by an eligible county under paragraph (e)(1) shall be deposited in a special account to be expended in accordance with title II by the Secretary of Agriculture without further appropriation.

Paragraph (e)(3)(A) requires an eligible county to notify the Secretary of Agriculture of its election not later than September 30 of each fiscal year. If the election is not made, 85 percent of the funds shall be expended in the same manner as the 25-percent payments. The balance will be remitted to the fund created by section 302(b).

Subparagraph (e)(3)(B) provides that, notwithstanding the expenditure rules in this section, eligible counties that receive payments of less than $100,000 may elect to expend the entire amount in the same fashion as 25-percent payments.

Section 103(a) requires the Secretary of the Treasury to make payments to eligible counties that received 50-percent payments for each fiscal year beginning in fiscal year 2000 as soon as practicable after the end of that fiscal year.

Subsection 103(b) directs that the payment to an eligible county for a fiscal year shall consist of the 50-percent payment applicable to that county unless there is an election to receive the full payment amount.

Subsection 103(c) provides direction on the election of the full payment amount.

Paragraph (c)(1) allows a county to elect the full payment amount in lieu of a 50-percent payment. This paragraph also states that each election to receive the full payment amount shall be effective for all subsequent fiscal years.

Subparagraph (c)(2) directs that payments to an eligible county under this subsection shall be derived first from any revenues, fees, penalties, or miscellaneous receipts, exclusive of trust fund deposits or special accounts, received from activities by the BLM on O&C lands, and second from any funds in the Treasury not otherwise appropriated.

Subsection 103(d) describes the expenditure rules for eligible counties to mimic the status quo.

Subparagraph (d)(1)(A) requires that eligible counties spend not less than 80 percent, but not more than 85 percent, of the funds in the same manner as 50-percent payments.

Subparagraph (d)(1)(B) provides that, upon election of an eligible county, the balance of the funds not expended in the same manner as the 50-percent payments shall be reserved for expenditure on projects in accordance with title II, or remitted to the fund created by section 302(b).

Paragraph (d)(2) provides that funds reserved by an eligible county under paragraph (d)(1) shall be deposited in a special ac-

count to be expended in accordance with title II by the Secretary of the Interior, without further appropriation.

Paragraph (d)(3) requires an eligible county to notify the Secretary of the Interior of its election not later than September 30 of each fiscal year. If the election is not made, 85 percent of the funds shall be expended in the same manner as the 50-percent payments. The balance will be remitted to the fund created by Section 302(b).

TITLE II—SPECIAL PROJECTS ON FEDERAL LANDS

Section 201 provides the definitions used in this title.

Section 202 provides a general limitation on the use of project funds. Project funds shall be expended solely for projects that meet the requirements of this title. Project funds may be used to enter into cooperative agreements with willing federal agencies, state and local government agencies, and private landowners for projects consistent with the purposes of this title on public or private land that benefit fish and wildlife habitat and other resources.

Section 203 governs the submission of project proposals to the Secretary concerned.

Paragraph 203(a)(1) provides the deadlines for the submission of project proposals by resource advisory committees.

Paragraph (a)(2) allows resource advisory committees to submit project proposals involving both project and other funds.

Paragraph (a)(3) allows the pooling of project funds by committees to jointly propose projects.

Subsection 203(b) identifies the necessary information that must accompany a proposed project, including: (1) a project description; (2) the project purpose and how it will meet the purposes of the Act; (3) the anticipated duration of the project; (4) the proposed source of funding and the anticipated cost; (5) expected outcomes; (6) a detailed monitoring plan; and (7) a public interest assessment.

Subsection 203(c)(1) requires that authorized projects should be consistent with the purposes of the Act.

Paragraph (c)(2) allows a resource advisory committee to propose reimbursement for local search and rescue as an authorized project, provided that the source of funding is the fund created by section 302(b).

Paragraph (c)(3) allows a resource advisory committee to propose reimbursement for local costs associated the salaries and benefits of county employees who supervise individuals performing mandatory community service on Federal lands.

Section 204 governs the evaluation and approval of projects by the Secretary concerned.

Subsection 204(a) describes the conditions for approval of proposed projects, including that: (1) the project complies with all applicable Federal laws and regulations; (2) the project is consistent with the applicable resource management plan or watershed plans; (3) the project has been approved by the appropriate resource advisory committee; and (4) the project description has been submitted to the Secretary concerned in accordance with section 203.

Subsection 204(b)(1) provides procedures for the payment of environmental reviews associated with projects.

Subparagraph (b)(1)(A) allows the Secretary concerned to request the resource advisory committee submitting a proposed project to

agree to the use of project funds to pay for any environmental review, consultation, or compliance associated with the project.

Paragraph (b)(1)(B) provides that, if the resource advisory committee declines to pay for the environmental review, the project shall be deemed rejected by the Secretary concerned.

Subsection 204(c) describes the decisions the Secretary concerned may make on proposed projects.

Paragraph (c)(1) provides that the decision to reject a proposed project is made at the sole discretion of the Secretary concerned, and shall not be subject to administrative appeal or judicial review. The Secretary concerned shall notify the resource advisory committee in writing within 30 days after reaching the decision to reject a project.

Paragraph (c)(2) requires the Secretary concerned to publish in the Federal Register notice of approval of a project that would otherwise require such notice.

Subsection 204(d) provides that, once the Secretary concerned accepts a project for review under this section, it shall be deemed a federal action for all purposes.

Subsection 204(e) provides direction on carrying out approved projects.

Paragraph (e)(1) provides that the Secretary concerned may enter into contracts, grants, and cooperative agreements with public and private entities to carry out an approved project, notwithstanding the limitations imposed by chapter 63 of title 31 of the United States Code.

Paragraph (e)(2) allows the Secretary concerned to use best value contracting to implement approved projects.

Paragraph (e)(3) directs the Secretary concerned to develop a pilot project for the disposal of forest products under a separate contract.

Section 205 governs the creation and operation of the resource advisory committees.

Subsection 205(a) provides direction on the establishment, purpose, and access to resource advisory committees. Existing advisory committees meeting the requirements of this section may be deemed by the Secretary concerned as a resource advisory committee for the purpose of title II.

Subsection 205(b) describes the duties of the resource advisory committees including: (1) reviewing projects proposed by counties and others; (2) proposing projects and funding to the Secretary concerned; (3) providing coordination with the land managing agencies; and (4) providing opportunities for interested parties to participate in project development.

Subsection 205(c) provides the procedures for the appointment, term, and compensation of resource advisory committee members.

Subsection 205(d) provides direction on the composition of the resource advisory committees including the number of members (15), the interests that must be represented, the balance and geographic distribution of interests that must be achieved, and the selection of a chairperson.

Subsection 205(e) provides direction for the approval of projects by resource advisory committees.

Paragraph 205(f)(1) authorizes the Secretary concerned to make staff assistance available to the resource advisory committees.

Paragraph (f)(2) requires resource advisory committee meetings to be announced one week in advance in a local newspaper, and be open to the public.

Paragraph (f)(3) requires resource advisory committees to keep, and make available for public inspection, meeting records.

Subsection 206 governs the use of project funds.

Subsection 206(a) directs the Secretary to enter into agreements with resource advisory committees to implement approved projects.

Paragraph (a)(1) requires the agreement to include: (1) a schedule for project completion; (2) the total project cost, including agency overhead; (3) the annual cost for multi-year projects; and (4) the remedies for failure by the Secretary concerned to implement the agreement.

Paragraph (a)(2) provides the Secretary concerned the discretion to cover the cost of a portion of an approved project using funds appropriated or otherwise available for the same purposes as the project.

Subsection 206(b) governs the transfer of project funds.

Paragraph (b)(1) requires that, as soon as practicable after an agreement is reached under subsection (a), the Secretary concerned shall transfer to the applicable national forest unit or BLM district the amount specified in the agreement to be paid or, in the case of multi-year projects, the amount specified for the first fiscal year.

Paragraph (b)(2) specifies that a project should not commence until the Secretary concerned has transferred the necessary project funds.

Paragraph (b)(3) specifies that the Secretary concerned shall suspend work on a multi-year project if the project funds required by the agreement for the second or any subsequent fiscal year are not available.

Section 207 governs the availability of project funds.

Subsection 207(a) requires a resource advisory committee to submit to the Secretary concerned a sufficient number of projects which, if approved, would result in the obligation of the full amount reserved by participating counties for the projects by the end of each fiscal year.

Subsection 207(b) provides that, if a resource advisory committee fails to comply with subsection (a) for a fiscal year, the remaining funds unobligated shall remain available for projects in the following fiscal years. However, any funds remaining if a county elects to suspend funding for projects shall be remitted to the fund created by section 302(b).

Subsection 207(c) provides that any funds remaining at the end of a fiscal year due to a rejection by the Secretary concerned shall remain available to be expended in the following fiscal years.

Subsection 207(d) provides that, if an approved project is enjoined or prohibited by court order, the funds for that project shall be available to expend on projects in the following fiscal years.

TITLE III—MISCELLANEOUS PROVISIONS

Section 301 authorizes appropriations to carry out the Act for fiscal years 2001 through 2007.

Subsection 302(a) provides that funds appropriated pursuant to the authorization in section 301 and funds made available to the Secretary concerned for projects under section 206 shall be in addition to any other annual appropriations.

Subsection 302(b) provides that any revenues generated from projects, any funds remitted by counties who elect not to fund projects, and any interest accrued from such funds shall be deposited and retained without further appropriations in a national fund to be available to the Secretary concerned to fund projects authorized under section 203. The Secretary concerned shall report annually on the use of this fund to Congress.

Section 303 provides that the Secretaries concerned may jointly issue regulations to carry out the purposes of the Act.

Section 304 repeals sections 13982 and 13983 of the Omnibus Budget Reconciliation Act of 1993.

Cost and Budgetary Considerations

The Congressional Budget Office (CBO) estimate of the costs of this measure has been requested but was not received at the time the report was filed. The Forest Service estimates the cost to be approximately $1.8 billion over 6 years. When the CBO report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1608.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1608, as ordered reported.

Executive Communications

On April 6, 2000 the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior, the Department of Agriculture, and the Office of Management and Budget setting forth Executive agency recommendations on S. 1608. These reports had not been received at the time the report on S. 1608 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Forest Service at the Subcommittee hearing follows:

STATEMENT OF JAMES R. LYONS, UNDER SECRETARY, NATURAL RESOURCES AND ENVIRONMENT, DEPARTMENT OF AGRICULTURE

Thank you for your invitation to testify on S. 1608, "Secure Rural Schools and Community Self-Determination Act of 1999." I appreciate the opportunity to join you today to continue the discussion that the Administration began last year on the need to provide a stable, permanent level of payments to states for schools and roads.

The Administration strongly believes: (1) We need to provide a permanent, stable payment at a higher level than what is provided by current law; (2) The payments need to be separated from fluctuating and often controversial timber sales; and (3) We need to strengthen the connection between communities and the land and water that sustains them.

The lessons of the past decade demonstrate that tying payments to states for essential services, such as schools and roads, to forest receipts simply does not work. Between 1989 and 1998, payments have declined by 36%. The decrease would have been even more dramatic if Congress had not provided a safety net for counties covered by the Northwest Forest Plan.

We need to find ways to finance our children's education, as we ensure that forests are managed to maintain their health, productivity, and diversity. Linking education to timber harvest objectives, however, sacrifices critical social objectives for other essential ecological objectives. Given our national wealth and our abundant national resources, we do not need to make such choices. Our objective should be to work together to reconnect rural communities to the lands that sustain them—not to set in motion new controversies and lawsuits.

With some modifications the Administration generally could accept the funding mechanism in S. 1608 as long as Congress works with the Administration to identify mutually acceptable offsets for the approximately $200 million more needed per year.

However, the Administration strongly opposes the resource investment section (section 6) of S. 1608. This section is objectionable for the following reasons:

(1) Section 6 continues to link 50 percent of the receipts from timber sales and other revenue generating projects to schools and roads. While the funding mechanism in the bill attempts to decouple these payments from schools and roads, the proposed revolving fund re-couples payments to revenue generating projects, primarily timber sales.

(2) Section 6 requires that the remaining 50 percent of the receipts from timber sales or other revenue generating projects go back to restoration projects, thus potentially continuing the downward spiral of harvesting valuable trees, the kind of trees that managers want left standing, to pay for watershed health.

(3) Section 6 places an unreasonable burden on the Forest Service by creating expectations that the counties can hold the agency financially responsible for failing to complete a project or for project delays in timing and outputs which are often caused by factors outside of the agency's control.

(4) Section 6 could undermine the credibility of the agency's National Environmental Policy Act (NEPA) process. Making agencies financially liable for the cost of environmental analysis if the analysis does not allow for project approval creates pressure on local managers to approve projects to avoid losing funding. The public's perception may be that the agency is approving projects regardless of environmental impacts.

The Department stands ready to work with the Committee to fix these problems.

Background

The Administration's over-arching reason for proposing legislation for the last two years in its budget submission to address payments to states is the need to provide a stable, predictable payment that counties can depend on to help fund their education and road maintenance needs. Under the current statutory provision, commonly known as the twenty-five percent fund, the Federal government pays twenty-five percent of most Forest Service receipts to the states for distribution to the counties in which National Forest lands are located for financing public roads and schools.

The Administration's proposal would:

(1) provide a stable, predictable payment that counties can depend on to help fund education and maintenance of roads,

(2) provide increased payments above the payments projected under current law to compensate states for National Forest land that are not available to the local tax base,

(3) provide a mandatory, permanent payment not subject to the annual appropriation process, and

(4) sever the connection between timber sales and critically important education and road maintenance needs.

Historically, the primary source of National Forest receipts has been from the sale of timber on National Forests. Over the past 10 years, timber harvest from National Forests has responded to new scientific information, changing social values, and our evolving understanding of how to manage sustainable ecosystems. As a result during that same period payments to states have fallen 36%, from $361 million in 1989 to $228 million in 1998. That reduction in payments to states would have been far greater if not for an agreement between Congress and the Administration to stabilize payments for counties in western Oregon, Washington and northern California in 1993, the so-

called owl county safety-net, the basis for the Administration's stabilization proposal.

Some counties and organizations have resisted separating payments from Forest Service receipts. In part, the resistance may stem from a belief that timber harvest levels will rise dramatically again in the future. But, with the need to do more forest stewardship sales and the corresponding shift to less profitable products being harvested, even if timber volume should increase, slightly, receipts from timber sales will likely continue to decrease.

Since fiscal year (FY) 1993 the proportion of harvest volume removed for timber commodity purposes has fallen from 71 to 52 percent, while the proportion being removed for forest stewardship purposes has grown from 23 to 40 percent. In FY 89, live trees, and large diameter trees, made up roughly 80 percent of the overall sales program; in FY 97, they represented only 60%.

In addition, in FY 99 and FY 00, the Administration's budget, which Congress accepted proposed timber offers levels below 4 billion board feet. We believe that the public will not accept the agency will not recommend, and science will not condone or justify a return of unsustainable timber harvest levels to the 11–12 billion board feet volume of the late 1980s.

We need to provide a reasonable payment to compensate states for the lands that are not available to the local tax base. Payments made through the payments in lieu of taxes (PILT) are often not appropriated to their fully authorized levels, creating difficulties for counties with a limited tax base due the presence of public lands. We need to ensure that states continue to benefit from both the intrinsic and economic values of public lands by guaranteeing a payment to make planning and budgeting predictable for counties. Thus, we believe we should provide a permanent, stable payment, based on historic levels, that is not subject to the annual appropriation process.

Specific concerns

Overall, while we support more collaboration with the public on land management issues, section 6 gives counties a direct financial interest in projects which we think is contrary to the spirit of our public land statutes.

Section 6 establishes a new program in which twenty-five percent of the full payment amount to counties or 25 percent fund payment, whichever is higher must be spent on resource investments on Bureau of Land Management or National Forest system lands. Resource investments are both commercial and noncommercial activities, involving resource management, stewardship, restoration, or development. In return, the counties and agencies each receive 50 percent of any funds generated by these projects. The counties' portion of receipts would then go to fund schools and roads and the agencies' portions would go toward funding watershed ecosystem restoration projects. The Sec-

retary must agree to the project and obligate the fund by the end of the fiscal year or the counties would lose this 25 percent portion of their payment.

Since S. 1608 allows counties to receive 50 percent of net revenues from any eligible project, it is likely to encourage counties to propose controversial projects such as commodity timber sales that maximize revenues instead of proposing much needed restoration and maintenance projects. This could increase the dependency of rural school funding on forest receipts and ensure that payments to states will continue to be tied to controversial forest management issues. Once again, funding for children's education could become directly dependent on timber harvest or other revenue generating activities.

In addition, section 6 creates an unnecessary level of complexity and potentially could degrade agency credibility. If the agencies choose to use county funding to complete NEPA on resource investment projects and do not complete them because of findings from environmental analysis, lawsuits, or even natural events and disasters, then the Secretary may be required to reimburse the counties the funds provided for the project plus interest, pursuant to a memorandum of understanding. This process could undermine the NEPA process by creating the perception that the agencies would approve eligible projects regardless of the environmental findings. Conversely, the agencies could be forced not to agree to projects with any level of controversy to avoid reimbursing counties thereby angering communities.

Moreover, since the agencies receive 50 percent of the revenues from resource investment funded projects, this legislation will create the perception, and perhaps the reality, that projects will be approved just to increase agency funding.

In addition, if as intended, counties could hold the agencies financially responsible for delays in timing and harvest shortfalls, the bill would essentially create the perception that private interests have the right to develop public assets risk-free. This would only add to the contentious debate over forest management, and drive counties and agencies farther apart instead of bringing them together to improve conditions and relationships on their national forests.

We fully support strengthening the connection between rural communities and the public forests that surround them; but, the community-forest connection should promote both healthy forests and prosperous communities working from a model that brings people together through consensus building, avoiding unnecessary controversy.

Recommendations

We would like to work with the Subcommittee and the bill's primary sponsor, to develop less complex project procedures and more equitable project funding arrangements.

To address our concerns we believe the reinvestment program included in S. 1608 should be revised and recommend the following changes:

(1) Establish a pilot program for 3-5 years to allow a minimal number of counties to implement the investment project program. Consider establishing an advisory committee to monitor the success of this program and make recommendations to Congress on how it should be implemented or expanded.

(2) Require receipts generated from the investment projects to be deposited in the general treasury.

(3) Allow only restoration and maintenance projects to be funded through this bill. This will ensure that receipts for commercial timber sales will no longer go towards funding schools and roads and watershed health projects.

(4) Eliminate the provision that creates the expectation that agencies should be required to reimburse counties for project costs if projects are not completed or approved. Relationships between communities and agencies need to be based on mutual trust, not on a financial threat subject to circumstances outside of agency control or when objective environmental analysis dictates against a project going forward.

Closing

In 1908, the twenty-five percent fund worked well as an incentive to develop national forests and settle remote lands. Moreover, we should not hold funding for schools and roads to the same standards of nearly a century ago. As demands on our National Forests have increased and timber harvest has declined, we need to provide a stable, permanent mechanism for making payments to states that do not depend on land management decisions.

Mr. Chairman, the Department supports the objectives of S. 1608, but we strongly oppose the bill for the reasons outlined above. Rather than continue the contentious debate over natural resource management of the National Forests, I hope you consider our recommendations to provide a permanent, predictable payment for schools and roads and to strengthen the connection between communities and their public forests. We would be pleased to work with the Subcommittee to pursue options that might meet our respective goals.

This concludes my statement; I would be happy to answer any questions you and the Members of the Subcommittee might have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 1608, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

AN ACT To provide for reconciliation pursuant to section 7 of the Concurrent Resolution on the Budget for Fiscal Year 1994

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[SEC. 13982. SHARING OF FOREST SERVICE TIMBER SALE RECEIPTS.

[(a) DEFINITIONS.—As used in this section:

[(1) APPLICABLE PERCENTAGE.—The term "applicable percentage" means—

[(A) for fiscal year 1994, 85 percent; and

[(B) for each of fiscal years 1995 through 2003, 3 percentage points less than the applicable percentage for the preceding fiscal year.

[(2) 25-PERCENT PAYMENTS TO STATES.—The term "25-percent payments to States" means the 25 percent payments authorized by the Act of May 23, 1908 (35 Stat. 260, chapter 192; 16 U.S.C. 500) for the States of Washington, Oregon, and California for the benefit of counties in which national forests are situated and that are affected by decisions related to the northern spotted owl.

[(3) SPECIAL PAYMENT AMOUNT.—The term "special payment amount" means the amount determined by multiplying—

[(A) the applicable percentage; by

[(B) the annual average of the 25-percent payments to States made to a county pursuant to such Acts during the 5-year period consisting of fiscal years 1986 through 1990.

[(b) PAYMENTS.—

[(1) IN GENERAL.—In lieu of making the 25-percent payments to States, the Secretary of the Treasury shall make payments to States, out of any money in the Treasury not otherwise appropriated, for the benefit of counties, that are eligible to receive the 25-percent payments to States as of the date of enactment of this Act in accordance with paragraph (2).

[(2) AMOUNT OF PAYMENTS.—

[(A) FISCAL YEARS 1994 THROUGH 1998.—For each of fiscal years 1994 through 1998, the payment to each State for the benefit of each county in the State referred to in paragraph (1) shall be equal to the sum of the special payment amounts for each county in the State.

[(B) FISCAL YEARS 1999 THROUGH 2003.—

[(i) IN GENERAL.—For each of fiscal years 1999 through 2003, the payment to each State for the benefit of each county in the State referred to in paragraph (1) shall be equal to the sum of the payments for each county in the State as calculated under clause (ii).

[(ii) PAYMENTS FOR COUNTIES.—The payment for each county referred to in clause (i) shall be equal to the greater of—

[(I) the special payment amount for the county; or

[(II) the share of the 25-percent payments to States allocable to the county.

[SEC. 13983. SHARING OF BUREAU OF LAND MANAGEMENT TIMBER SALE RECEIPTS.

[(a) DEFINITIONS.—As used in this section:

[(1) APPLICABLE PERCENTAGE.—The term "applicable percentage" means—

[(A) for fiscal year 1994, 85 percent; and

[(B) for each of fiscal years 1995 through 2003, 3 percentage points less than the applicable percentage for the preceding fiscal year.

[(2) 50-PERCENT PAYMENTS TO COUNTIES.—The term "50-percent payments to counties" means the 50-percent share paid to counties in the States of Oregon and California pursuant to title II of the Act of August 28, 1937 (50 Stat. 875, chapter 876; 43 U.S.C. 1181f), and the payments made to counties pursuant to the Act of May 24, 1939 (53 Stat. 753, chapter 144; 43 U.S.C. 1181f–1 et seq.).

[(3) SPECIAL PAYMENT AMOUNT.—The term "special payment amount" means the amount determined by multiplying—

[(A) the applicable percentage; by

[(B) the annual average of the 50-percent payments to counties made to a county pursuant to such Acts during the 5-year period consisting of fiscal years 1986 through 1990.

[(b) PAYMENTS.—

[(1) IN GENERAL.—In lieu of making the 50-percent payments to counties, the Secretary of the Treasury shall make payments, out of any money in the Treasury not otherwise appropriated, to counties that are eligible to receive the 50-percent payments as of the date of enactment of this Act in accordance with paragraph (2).

[(2) AMOUNT OF PAYMENTS.—

[(A) FISCAL YEARS 1994 THROUGH 1998.—For each of fiscal years 1994 through 1998, the Secretary of the Treasury shall pay to each county referred to in paragraph (1) the special payment amount.

[(B) FISCAL YEARS 1999 THROUGH 2003.—For each of fiscal years 1999 through 2003, the Secretary of the Treasury shall pay to each county referred to in paragraph (1) the greater of—

[(i) the special payment amount; or

[(ii) the share of the 50-percent payments to counties allocable to the county.]

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